

Appl. No. 10/784,855
Reply to Office Action of 06/02/2006

REMARKS:

The status of the application according to the pending Office Action is as follows:

Claims 1-19 are withdrawn from consideration;

Claims 20-33 are objected to because of informalities; and

Claims 20-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Keithly et al. (U.S. Patent No. 6,523,496).

In view of the following remarks, Applicants respectfully request reconsideration and withdrawal of all grounds of rejection, and the passage of the above-identified claims to allowance.

1. Claims 20-33 are objected to because of informalities.

Currently amended independent claim 20 recites "... the citrus byproduct containing citrus peel or pulp ...", which is consistent with the disclosure in the original application as filed.

Accordingly, Applicants respectfully submit that the objection of informality of independent claim 20 and its dependent claims 21-33 have been overcome.

2. Claims 20-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Keithly et al. (U.S. Patent No. 6,523,496).

Keithly et al. disclose an improved poultry bedding litter composition that includes byproduct or waste material from citrus juice extraction. Keithly et al. do not teach or suggest "a breeder poultry feed diet composition which comprises ... a citrus feed supplement, ... said citrus feed supplement being at a concentration of not more than about 2 weight percent, based on the total weight of the poultry feed diet composition ...", as disclosed by the claimed invention.

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The Examiner alleged that there was no showing of the criticality of the recited citrus supplement concentration. Applicants direct the Examiner's attention to Figure 1 and paragraph [0068] of the current Specification, where it is disclosed that the optimal concentrations of citrus feed supplement tested are 0.8 weight percent and 1.6 percent among all the compositions that were tested, which included 0, 0.4, 3.2 and 6.4 weight percent compositions. Citrus feed supplement at a concentration of 6.4 weight percent is significantly inferior in terms of feed conversion than the other compositions, and the birds fed compositions having concentration of 0.8 weight percent and 1.6 percent weight percent performed best. (see Specification, page 18, paragraph [0068]). This showing establishes the criticality of the recited feed supplement concentration.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or reference when combined) must teach or suggest all the claim limitations.

In view of the foregoing, Applicants respectfully submit that at least the above-identified first and third criteria for establishing a prima facie case of obviousness have not been established. Accordingly, for at least these reasons, Applicants respectfully submit that claim 20 is allowable over Keithly et al. (U.S. Patent No. 6,523,496).

Because claims 21-33 depend, either directly or indirectly, from claim 20, and “[d]ependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious.” *In re Fine*, 5 USPQ2d, 1586-1600 (Fed. Cir. 1988), Applicants respectfully submit that these claims are allowable as well.

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CONCLUSION

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In view of the foregoing, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of all of the claims now present in the application in due course.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to Goodwin Procter LLP Deposit Account No. 06-0923.

Respectfully submitted for Applicants,



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